

ONE HUNDRED SIXTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

February 22, 2019

The Honorable Ann Marie Buerkle  
Acting Chairman  
Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

Dear Acting Chairman Buerkle:

With the start of the 116<sup>th</sup> Congress, the Committee will resume its traditional role of oversight to ensure that the agencies under its jurisdiction are acting in the best interest of the public and consistent with their legislative authority. Given your role as Acting Chairman of the Consumer Product Safety Commission (CPSC), it is your responsibility to make certain the Commission performs its duties according to those standards.

We appreciate your willingness to appear before the Committee when called upon and hope we can continue to count on you to be responsive to all Congressional inquiries in a timely fashion. It is our intention to work collaboratively with you, your fellow commissioners, and the hardworking employees of the CPSC to advance the goal of protecting consumers from the risks of injury or death associated with consumer products.

To that end, it is incumbent upon the Committee's leadership and its members to oversee and ensure the CPSC is in fact fulfilling its mission. We ask that the CPSC update the Committee with information detailing its current workload, the work of its offices, and its interactions with the public through its handling of consumer complaints and Freedom of Information Act requests. We have attached a series of questions that encompass those issues and respectfully request that you provide a complete written response no later than March 22, 2019.

The Honorable Ann Marie Buerkle  
February 22, 2019  
Page 2

We appreciate your assistance in this matter. If you have any questions regarding this inquiry, please do not hesitate to contact Lisa Goldman of the Committee staff at (202) 225-2927.

Sincerely,

A handwritten signature in blue ink that reads "Frank Pallone, Jr." in a cursive style.

Frank Pallone, Jr.  
Chairman

A handwritten signature in blue ink that reads "Jan Schakowsky" in a cursive style.

Jan Schakowsky  
Chair  
Subcommittee on Consumer  
Protection and Commerce

Attachment

### ATTACHMENT

1. To help the Committee better understand the CPSC's current workload and backlog, please provide the total number of all items pending. Please include all rulemakings, petitions, applications, complaints, requests, and other items pending before the CPSC. Please categorize these items according to the bureau or office primarily responsible for action and the amount of time that has elapsed since each item was filed with the CPSC, using the following table:

Office	< 6 mos.	6 mos. – 2 yrs.	2 yrs. – 5 yrs.	> 5 yrs.
Hazard Identification & Reduction				
Import Surveillance				
Compliance & Field Operations				
International Programs				
General Counsel				

2. Separately for each of the offices above, categorize the pending items by type and then within each category, list each item, the length of time the item has been pending, and if applicable, identify the name of the complainant or petitioner that initiated the item.
3. Separately for each office in the table in Question 1, provide the number of staff members currently employed and the number of vacancies. For each vacancy, provide the title of the vacant job and how long it has been vacant.
4. Provide the total number of reports of unsafe products the CPSC received in fiscal year 2016, 2017, 2018, and 2019 through saferproducts.gov. In addition, provide the number of unsafe product reports the CPSC has received in the following categories in 2016, 2017, 2018, and 2019:

<b>Subject of Report</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
All-terrain vehicles				
Baby				
Clothing and Accessories				
Containers and Packaging				
Drywall				
Electronics				
Fuel, Lighters, and Fireworks				
Furniture, Furnishings, and Decorations				
Gun safety locks				
Hobby				
Home Maintenance and Structures				
Kitchen				
Personal Care				
Portable generators				
Products at Public Facilities				
Recreational Off-Highway Vehicles				
Sports and Recreation				

Toys and Children				
Yard and Garden				
Cribs				
Furniture Tip-Overs				
Strollers				
Window coverings				
Youth-resistant firearm containers				

5. For each year 2016, 2017, 2018, and 2019, please provide the total number of reports of unsafe products received from consumers through saferproduct.gov, the number of those reports that were made available for public view on the website, and the number that were not made available for public view on the website. For each report of an unsafe product received from a consumer that was not made available for public view on saferproducts.gov, provide the reason it was not made public.
6. Provide the following information for each year 2016, 2017, 2018, and 2019 regarding the work of the Office of Compliance & Field Operations:
  - a. The number of investigations open as of January 1<sup>st</sup> of that year and category of products investigated (e.g., baby, toys, clothing, etc.).
  - b. The number of investigations opened in that year and types of investigations.
  - c. The number of investigations and types of investigations closed that year with no enforcement action taken, and the reason closed (e.g., no violation found, etc.).
  - d. The number of recalls initiated that year, whether those recalls were voluntary or mandatory, and whether the recall was implemented through the Fast Track Program.
  - e. A list of all enforcement actions taken that year, categorized by the type of enforcement action taken (e.g., civil penalty, required compliance measures, etc.).
  - f. A list of open cases or investigations of products that resulted in death, including the product being investigated, the length of time the case or investigation has been open, the hazard pattern associated with the product, the population potentially affected, and the number of deaths associated with the product.
7. For each year 2016, 2017, 2018, and 2019, please list all voluntary standards committees in which a CPSC employee or representative is participating or has participated and the status of those standards, all voluntary standards for which the CPSC has proposed

standards development or revision, and all voluntary standards for which CPSC is conducting or has conducted tests and evaluations to support findings.

8. List each Advanced Notice of Proposed Rulemaking (ANPRM), Notice of Inquiry (NOI), Notice of Proposed Rulemaking (NPRM), and Final Rule the Commission has initiated or adopted during your acting chairmanship. For each listed item, include:
  - a. The date it was adopted;
  - b. The date it was released;
  - c. The date it was published in the Federal Register;
  - d. If it was an NPRM, the ANPRM or NOI initiating the proceeding (if any), and the date the ANPRM or NOI was adopted;
  - e. If a Final Rule, the NPRM proposing the adopted rules and the date the NPRM was adopted, and
  - f. If an ANPRM, NOI, or NPRM, the length of the comment period and the number of public comments the agency received on each item.
9. List each ANPRM, NOI, NPRM, and Final Rule pending on January 20, 2017. For each item, please include:
  - a. The date it was adopted;
  - b. The date it was released;
  - c. The date it was published in the Federal Register;
  - d. If it was an NPRM, the ANPRM or NOI initiating the proceeding (if any) and the date the ANPRM or NOI was adopted;
  - e. If a Final Rule, the NPRM proposing the adopted rules and the date the NPRM was adopted, and
  - f. If an NOI or NPRM, the length of the comment period and the number of public comments the agency received on each item.
  - g. If it was not adopted, provide the reason it was not.
10. For each year 2016, 2017, 2018, and 2019, provide a list of all requests made to the agency pursuant to the Freedom of Information Act (FOIA). For each request, whether completed or still pending, indicate:
  - a. The date the request was received;
  - b. The name of the requesting party;
  - c. The nature of the request;
  - d. The date the CPSC responded to the request;<sup>1</sup>
  - e. Whether the CPSC provided the information requested in full or in part and whether the request was denied in full or in part;
  - f. Whether the requesting party appealed the CPSC's decision to deny in whole or in part the request;

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<sup>1</sup> If the CPSC provided a series of responses, list each one separately.



- g. Whether the CPSC required that the requestor pay a fee and, if so, the amount of the fee.
11. For each year 2016, 2017, 2018, and 2019, provide a list of each letter sent to the CPSC from a member of Congress to which the CPSC has not yet provided a response. For each letter, provide a description of the issues it raised and the date it was received by the CPSC.
12. For each year 2016, 2017, 2018, and 2019, please list all violations that resulted in an agreement to pay or an award of civil penalties, the company that made the violations, and the type of violation that resulted in a civil penalty. Please also list all referrals made by the office of compliance and field operations to the office of the general counsel, when the referral was made, and how the referred matter was resolved or whether the matter is still pending.
13. For each year 2016, 2017, 2018, and 2019, please list the 10 largest product recalls by number of units recalled. For each product recall listed, please provide the number of units recalled, the type of remedy (e.g., replacement, replacement, or refund), and the number or percentage of units for which remedy was sought.
14. In recent years, questions regarding real or potential conflicts-of-interest of CPSC leadership and staff have surfaced.<sup>2</sup>
- a. Has the agency undertaken any efforts to ensure that its policies regarding conflict of interest and recusals are comprehensive and in compliance with Federal law and regulations?
  - b. How often are agency officials and staff required to attend training sessions regarding these policies?
  - c. For each year 2016, 2017, 2018 and 2019, provide a list of all matters from which a Chairperson, Commissioner, or senior staff has been recused. For each such matter, identify the person(s) recused and the basis for the recusal.
15. For each year 2016, 2017, 2018 and 2019, provide an analysis of the efforts CPSC has undertaken to increase workforce diversity within the agency, including efforts to increase the hiring and promotion of qualified candidates to management.

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<sup>2</sup> See, e.g., Letter from Rep. Frank Pallone, Jr., Ranking Member, House Committee on Energy and Commerce and Rep. Jan Schakowsky, Ranking Member, Subcommittee on Digital Commerce and Consumer Protection, to Sen. John Thune, Chairman, Senate Committee on Commerce, Science and Transportation and Sen. Bill Nelson, Ranking Member, Senate Committee on Commerce, Science and Transportation (Oct. 31, 2017); *The Deaths that Come When an Industry's Left to Regulate Itself*, The Atlantic (Dec. 8, 2017); *Trump Pick to Head Consumer Safety Board is Seen as Too Close to Industries*, New York Times (Dec. 6, 2017).